

**FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

UNILOC 2017 LLC

Plaintiff,

v.

GOOGLE LLC,

Defendant.

Civil Action No. 2:18-cv-00503-JRG

**DEFENDANT GOOGLE LLC'S REPLY IN SUPPORT OF ITS MOTION FOR AN  
AWARD OF FEES AND COSTS PURSUANT TO 35 U.S.C. § 285**

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

A. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

**B. Uniloc's Arguments Confirm that Its Infringement Theory Was Implausible**

Uniloc's 285 Opposition confirms that it willfully or recklessly ignored the intrinsic record and Google's internal documents, rendering this case exceptional.

As explained above, [REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. *MarcTec*, 664 F.3d at 919–20.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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<sup>1</sup> [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**C.** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]; *Hakin v. Cannon Avent Grp., PLC*, 479 F.3d 1313, 1320 (Fed. Cir. 2007) (excluding untimely expert declaration that the court found “self-serving, [and] biased”).<sup>2</sup> Citations to “Ex. \_\_” are to the exhibits attached to the Declaration of Michael A. Berta in Support of Google’s Reply in Support of Its Motion for an Award of Fees and Costs Pursuant to 35 U.S.C. § 285, filed concurrently herewith.

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Uniloc’s attempt to shift the burden to Google to provide notice of non-infringement as a defense to awarding fees has been rejected by Uniloc’s own cited authority. *Stone Basket Innovations, LLC v. Cook Med. LLC*, 892 F.3d 1175, 1182–83 (Fed. Cir. 2018) (acknowledging that a purported lack of notice does not excuse plaintiff’s “willful ignorance or failure to assess the soundness of pending claims.”); *see also Thermolife Int’l LLC v. GNC Corp.*, 922 F.3d 1347, 1358 (Fed. Cir. 2019) (holding that no “such notice is rigidly required” to award fees).

**D. Uniloc’s Other Arguments Lack Merit**

Uniloc’s other arguments similarly lack merit. For instance, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Dkt. 118 at 14–15; 125 at 9

& n.7; Ex. 26 at 3. [REDACTED]

[REDACTED]

[REDACTED] Finally, Uniloc’s accusations about the conduct of an attorney from a different firm in a different case are irrelevant. [REDACTED].

For the foregoing reasons, Google respectfully requests that this Court grant its 285 Motion.

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DATED: September 9, 2020

Respectively submitted,

/s/ Nicholas H. Lee, with permission by  
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**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via electronic mail on September 9, 2020.

I also hereby certify that all counsel of record who have consented to electronic service are being served with a notice of filing of this document, under seal, pursuant to L.R. CV-5(a)(7) on September 9, 2020.

/s/ Michael E. Jones

**CERTIFICATE OF AUTHORIZATION TO FILE UNDER SEAL**

I certify that the foregoing document is authorized to be filed under seal pursuant to the Protective Order entered in this case.

/s/ Michael E. Jones